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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Approval of Long-term Request for Offer
Results and for Adoption of Cost Recovery and
Ratemaking Mechanisms.

(U 39 M)

Application 06-04-012
(Filed April 11, 2006)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Summary

By this application, Pacific Gas and Electric Company (PG&E) requests approval of Power Purchase Agreements (PPAs), Purchase and Sale Agreements (PSAs) and Engineering Procurement and Construction (EPC) contracts for long term generation resulting from its Request for Offer (RFO) and associated ratemaking treatment for their costs. This ruling sets forth the scope, service list, schedule, category, and assignment of the presiding officer for this proceeding following the May 25, 2006, prehearing conference (PHC), pursuant to Rule 6.3 of the Commission's Rules of Practice and Procedure (Rules).

Scope of Issues

We will consider the following issues in this proceeding:

1. Should the Commission approve the PPAs, PSAs, and EPC contracts?

The following considerations are included within the scope of this issue:

- Whether the contracts reasonably implement and are consistent with PG&E's long-term resource plan;
- Whether the contracts provide resource adequacy and system-wide reliability;

- Whether the contracts result from a competitive procurement process that was open and adequately subscribed consistent with Pub. Util. Code § 454.5;
- Whether the amount of procurement is reasonable;
- Whether the resource mix of the procurement consistent with the State's goals;
- Whether the contracts are cost effective and meet the needs of PG&E's bundled service ratepayers;
- Whether the contracts are superior to contracts that were not selected by PG&E;
- Whether the modeling and selection criteria unfairly discriminated against any bidder;
- Whether the selection of contracts was consistent with the description of supplies solicited in the RFO; and
- Which, if any, of these issues are determinative of the Commission's decision to approve or reject the contracts.

Although the record that will be developed here may prove relevant and useful to a determination of changes or additional safeguards to the RFO process on a going-forward basis, that issue is beyond the scope of this proceeding.

Aglet Consumer Alliance questions the reliability of the proposed PPA for 601 Megawatt of capacity and dispatchable energy with Calpine Russell City (Calpine), due to the risk of non-performance by Calpine. This issue is within the scope of the issue of whether the contracts provide resource adequacy.

2. What ratemaking should apply to the costs of the contracts?

This issue encompasses:

- Whether the capital cost estimates for the utility-owned facilities are reasonable and prudent, and whether PG&E should be able to recover the actual costs, if lower than the estimates, without a reasonableness review;

- Whether PG&E should be at risk for the recovery of costs of the utility-owned facilities above the estimates, and required to demonstrate their reasonableness in the general rate case (GRC) following the commercial operation dates;
- Whether the Commission should approve PG&E's proposal for the recovery of non-fuel costs of operating the utility-owned facilities prior to PG&E's first GRC after commercial operation;
- Whether the Commission should approve PG&E's proposal to revise the cost estimate of the utility-owned facilities for changes in the rate of return and other factors determined in PG&E's GRC;
- Whether the Commission should allow PG&E to seek expedited approval of increased capital or operating and maintenance cost estimates in the event of a delay in the start of construction, regulatory requirements or other external events; and
- Whether PG&E should recover the costs of the PPAs and long-term procurement transaction costs through a debit to the Energy Resource Recovery Account (ERRA).

The issue of whether the Commission should adopt a mechanism to allocate the costs of any of these contracts to direct access customers, specifically including the "Proposal of Southern California Edison, PG&E, NRG Energy, Inc., AES Corporation and The Utility Reform Network on Additional Policies Necessary to Support New Generation and Long-Term Contracting" (Joint Parties Proposal) in R.06-02-013, the Long-Term Procurement rulemaking, is outside the scope of this proceeding.

- 3. Should the Commission grant a certificate of public necessity and convenience (CPCN) for the proposed Humboldt Bay Power Plant?**
- 4. Are the projects at issue in this proceeding exempt from California Environmental Quality Act (CEQA) review by the Commission pursuant to Rule 17.1(c)?**

5. Does PG&E have the authority to condition concluding the RFO on approval of the cost allocation proposal in R.06-02-013?

This issue may become moot during the course of the proceeding, as a result of Commission action in Rulemaking 06-02-015.

Schedule

The schedule for this proceeding is as follows, unless modified by ruling of the presiding officer:

<u>Date</u>	<u>Activity</u>
July 28, 2006	All Interested Parties' Testimony (served)
August 11, 2006	Rebuttal Testimony (served)
August 22-25.....	Evidentiary Hearings, commencing at 9:00 a.m. ¹

At the close of the evidentiary hearing, a post-hearing briefing schedule will be established, and the proceeding will be submitted upon the filing of reply briefs.

It is anticipated that this proceeding will be completed within 18 months of the issuance of this scoping memo consistent with Pub. Util Code § 1701.5. However, if it is determined that CEQA review by the Commission is required (see issue number 4, above), we may issue an amended scoping memo extending the schedule of the proceeding beyond the 18 month period.

Category of Proceeding

This ruling confirms the Commission's preliminary determination in Resolution ALJ 176-3171, dated April 27, 2006, that this proceeding is a ratesetting proceeding, as described in Rule 5(c), and changes the Commission's

¹ Evidentiary hearings will be held at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102.

preliminary determination that hearings are not required (Rule 6(a)(3)). This ruling, only as to category, is appealable under Rule 6.4.

Assignment of Presiding Officer

Administrative Law Judge Hallie Yacknin is the presiding officer.

IT IS RULED that:

1. The scope and schedule for this proceeding are set forth herein.
2. Any request for final oral argument before the Commission shall be made as part of reply briefs that may be filed in this proceeding.
3. This is a ratesetting proceeding.
4. Hearings are necessary.
5. Parties shall observe and comply with the *ex parte* communications rules set forth in Rules 7(c) and 7.1 of the Commission's Rules of Practice and Procedure.
6. The presiding officer in this proceeding is Administrative Law Judge Hallie Yacknin.

Dated June 1, 2006, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Scoping Memo and Ruling on all parties of record in this proceeding or their attorneys of record.

Dated June 1, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.